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NOVARTIS PHARMACEUTICALS
CORPORATION

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PLEXXIKON INC.,

Plaintiff,

v.

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendant.

Case No. 4:17-cv-04405-HSG

**STIPULATION AND ORDER TO PERMIT
DEPOSITIONS AFTER THE FACT
DISCOVERY CUTOFF DATE**

Ctrm: 2 – 4th Floor
Judge: Honorable Haywood S. Gilliam, Jr.

1 Pursuant to Northern District of California Civil Local Rules 6-2 and 7-12, Plaintiff Plexxikon
2 Inc. (“Plexxikon”) and Defendant Novartis Pharmaceuticals Corporation (“NPC”) stipulate and request
3 that the Court enter an order permitting the parties to take certain depositions after the January 17, 2019
4 close of fact discovery. Specifically, Plexxikon requests to take the depositions of third-party witnesses
5 John Stellwagen, Christina Schwarz, and Zuosheng Liu, and NPC requests to take the depositions of
6 Plexxikon and third-party witnesses Chao Zhang, Wayne Spevak, and Kathleen Glaub, on or before
7 February 6, 2019. Plexxikon further requests to take the continued 30(b)(6) deposition of non-party
8 witness GlaxoSmithKline (“GSK”) on or before February 6, 2019, and be permitted to rely on documents
9 produced by GSK after the close of fact discovery.

10 On December 22, 2017, the Court issued a scheduling order setting deadlines through claim
11 construction. *See* ECF No. 57. On June 5, 2018, the parties filed a joint motion to amend the scheduling
12 order and set a schedule for the remainder of the case. *See* ECF No. 76. The Court issued a revised
13 scheduling order on June 20, 2018, setting, in relevant part, a fact discovery cutoff date of January 17,
14 2019, an opening expert report exchange date of February 4, 2019, an expert discovery cutoff date of
15 May 2, 2019, and a trial date of October 7, 2019. *See* ECF No. 80. This order explained that “[t]hese
16 dates may only be altered by order of the Court and only upon a showing of good cause.” *Id.* at 1. There
17 have been no subsequent time modifications in this case, either by stipulation or Court order.

18 Permitting the parties to take these depositions on the aforementioned dates will not affect any of
19 the remaining dates set by the Court’s June 20, 2018 Revised Scheduling Order. Moreover, good cause
20 exists to take these depositions after the close of fact discovery. The parties have been working
21 diligently to schedule depositions, but witness and attorney schedules, including the need to coordinate
22 with counsel for third-party witnesses, have made it necessary to schedule these few depositions after the
23 January 17, 2019 fact discovery cutoff date. The parties agree that they will not use the depositions of
24 the non-GSK witnesses as a basis for seeking a stay.

1 Dated: January 14, 2019

DURIE TANGRI LLP

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3 By: /s/ Matthew W. Samuels
MATTHEW W. SAMUELS

4 Attorney for Plaintiff
5 PLEXXIKON INC.

6 Dated: January 14, 2019

McDERMOTT WILL & EMERY LLP

7 By: /s/ Thomas P. Steindler
8 THOMAS P. STEINDLER

9 Attorney for Defendant
10 NOVARTIS PHARMACEUTICALS
CORPORATION

11 **FILER'S ATTESTATION**

12 Pursuant to Civil L.R. 5-1(i)(3), regarding signatures, I, Matthew W. Samuels, attest that
13 concurrence in the filing of this document has been obtained.

14 Dated: /s/ Matthew W. Samuels
15 MATTHEW W. SAMUELS

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Dated: 1/14/2019

HON. HAYWOOD S. GILLIAM, JR.
UNITED STATES DISTRICT JUDGE